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SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 February 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)
later: Mr. BROTODININGRAT (Indonesia)

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GE.93-10922(EXT)

The meeting was called to order at 10.15 a.m.

STATEMENT BY MR. ABDELAZIZ ABDALLA SHIDO, MINISTER OF JUSTICE AND ATTORNEY-GENERAL OF SUDAN

1. Mr. ABDELAZIZ ABDALLA SHIDO (Minister of Justice and Attorney-General of Sudan) observed that the World Conference on Human Rights would take place in a world of turmoil and suffering. The Sudanese authorities hoped that the United Nations would succeed in its efforts to preserve human dignity and establish a new international order, but wondered whether that objective could be attained in a world divided between the haves and the have-nots, in a world where the strong and mighty exploited the weak and the needy without offering them the assistance they needed, in a world where justice was not the same for all.

2. There was an immense imbalance in all spheres between the highly advanced countries, the developing countries and the least developed countries. In that context of inequality, some of the least developed countries were accused of human rights violations based on the standards of the developed countries. Regardless of the problems faced by those countries, the yardstick of the developed countries was used to evaluate their situation. It was argued, in justification of that approach, that the rights violated were basic standards. That might well be true, but the application of those standards was nevertheless relative to the socio-economic and cultural values of countries. It was therefore only fair and just that the international community should take into account the general situation in a given country before pronouncing judgement on human rights there.

3. Before 1989, Sudan had been on the verge of collapse (war in the south, armed robbery in the west, millions of displaced persons throughout the country and the absence of authority), and that the rebel movement had created anarchy in vast areas of the south, the Nuba mountains and the Blue Nile Province. In addition, the country had been severely affected by drought and desertification. Yet despite that extremely difficult situation, the authorities had endeavoured to satisfy the basic needs of all citizens. The success achieved in agriculture and the restoration of peace, law and order in many areas of the country had been reflected in a steady improvement in the situation of all citizens who had thus been able to enjoy their fundamental rights. In its desire to respect the most basic right of all, namely, the right to life, the Sudanese Government had accorded high priority to the task of ending lawlessness and banditry and, at the same time, of taking care of displaced persons as far as its meagre resources would allow. But it took two to make peace, and the rebels had been singularly uncooperative. In the 10 years since the outbreak of the civil war, the rebel leader John Garang had been unable to spare even ten minutes to meet the Sudanese authorities, which were nevertheless still trying to achieve a peaceful settlement and hoped, thanks to the efforts of Ibrahim Babangida, the President of Nigeria, and other African heads of State, and with the help of the international community, to resolve the conflict.

4. The conflict between north and south dated back to British colonialism; in 1947 the decision to unify Sudan had been taken by the British at the Juba Conference. In 1955, a year before independence, a mutiny had broken out in the south, whence troops were to have been transferred to the north. Since then the dispute had escalated into an armed conflict which was still continuing, with the exception of a truce between 1972 and 1983, following the

Addis Ababa Agreement under which local autonomy had been granted to the south. It was sad that certain countries, instead of helping to resolve the conflict, were doing everything possible to aggravate it. The Sudanese authorities, through the Commission, therefore called upon the international community to assist them in its settlement. They had also appealed to his Holiness the Pope who, during his recent visit to Sudan, had seen for himself the tolerance of the Sudanese people and the peaceful co-existence of various ethnic and religious communities. It was unfortunate that certain foreign media had portrayed the Pope's visit in a negative light.

5. Sudan had offered its co-operation to all United Nations envoys and missions, and had co-operated fully with non-governmental organizations providing humanitarian relief and wished to continue its co-operation in the hope of achieving better living conditions for its citizens. Allegations of human rights violations and discrimination against minorities were either made by dissident groups or explained by isolated cases of abuse of authority which had been greatly exaggerated. The Sudanese authorities did not claim to be perfect, but in view of the armed conflict taking place and the fact that it was difficult to anticipate and control all abuses, they believed that Sudan should be commended rather than condemned. They regretted that in November 1992 the General Assembly had unfairly condemned Sudan without even waiting for the report of the independent expert. In the view of his Government it was inadmissible that, for political reasons, certain parties should make unfounded and improbable allegations for the sole purpose of defaming it.

6. He invited all members of the Commission wishing to do so to visit his country to satisfy themselves that such allegations were untrue. Some of the violations referred to went back to the period when the country had barely emerged from anarchy. During that period of transition, the Sudanese Government had done what any Government would have done in similar circumstances, namely, its first priority had been to secure peace and respect for the rule of law. It was not impossible, of course, that certain abuses had occurred. Yet what was important was that the Government had embarked upon a programme of reform and was consistently endeavouring to cooperate with the United Nations which, he hoped would recognize its good faith and provide it with all the assistance and support it needed to ensure better living conditions for its people.

7. The United Nations should respect the criteria of universality, objectivity and non-selectivity in human rights matters, and should base its decisions on reliable evaluations. Just as Sudan would be prepared to except a just and fair resolution, it was unable to accept a selective and biased resolution. It had adopted most of the conventions on human rights and was willing to abide by the standards they proclaimed. Just as a father would never wish to inflict suffering on his children, a State would not be willing to subject its citizens to harassment and deprivation. In extraordinary circumstances, the father or the State, wishing to end the suffering of his family or its people, should be assisted. The Sudanese Government was sincere and of good will.

8. He assured the Commission that negotiations with the rebel movement were continuing, that Sudan had concluded agreements with international agencies, humanitarian organizations and donor Governments to provide it with humanitarian assistance, that Sudan had co-operated with the independent expert during his mission in the country, that the Government had set up an independent judicial fact-finding committee under a judge of the Supreme Court to investigate various allegations concerning what had happened at Juba in June and July 1992, and that

it would communicate the findings to the Special Rapporteur on Summary or Arbitrary Executions, that, since the adoption of an amendment to the Security Act in 1991, all political detentions had been subject to judicial review, that all political detainees had been released and that a Committee had been established under the Ministry of Justice to monitor the human rights situation in the country and to answer any allegations of violations submitted by bodies responsible for the protection of human rights or by a United Nations body. He would personally supervise the work of that Committee.

9. It would appear that the accusations made against Sudan may have been motivated by its Islamic orientation. In Islam Sudan had once again found its identity which it had lost during the colonial period, and a spirit of national unity had emerged without entailing discrimination against other religions. In that context, Sudan had created a federal system which catered to the rights of minority groups and enabled them to practise their religion. It was important to note, moreover, that the provinces in the south of the country were not subject to Shari'ah.

10. Sudan was committed to the creation of a model of co-existence between various religious and ethnic communities. The Islamic renaissance taking place in the country was admired by many Muslims throughout the world and would in no way affect other communities, which enjoyed the same rights as Muslims. The Sudanese Government was a Government for all Sudanese citizens and intended to take into account the aspirations of all, so that all religious communities could prosper in harmony.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES ON THE WORK OF ITS FORTY-FOURTH SESSION (agenda item 19) (E/CN.4/1993/2-E/CN.4/Sub.2/1992/58, E/CN.4/1993/58 and Add.1, E/CN.4/1993/59, E/CN.4/1993/60, E/CN.4/Sub.2/1992/3 and Add.1)

11. Mr. WEISSBRODT (United States of America) said that in recent years the United States and other countries had criticized the Sub-commission for ignoring the directions of the Commission and also because some of its members were insufficiently independent of their Governments. Those criticisms had in part motivated the Sub-commission at its 1992 session to draft a number of guidelines, some of which were especially worthy of mention.

12. It had limited the number of studies being prepared at any one time to 13. It had prescribed a standard 3-year sequence for most studies: a preliminary report in the first year, a progress report in the second and a final report in the third. Furthermore, it had agreed that a new study could begin only after submission of a preparatory document indicating its relevance, timeliness and general outline. It had tried to improve the quality of discussions by authorizing the appointment of a commentator for each study and by placing time limits on statements. It had sought to develop a more systematic approach to following up the recommendations made in final reports. Lastly, it had sought to reduce the number of decisions and resolutions adopted. The Sub-Commission should not only abide by those guidelines but also adopt others. Specifically, it should avoid adopting resolutions concerning countries whose situation had already been considered by the Commission or the General Assembly. It should also, with the assent of the expert concerned, make better use of the skills of alternates, by entrusting them with the preparation of studies or at least

requesting them to assist in their preparation and appointing them as commentators.

13. The fact that Governments often proposed - and that the Commission elected - individuals without the requisite expertise in human rights, who lacked sufficient commitment to the protection of human rights and who may be significantly influenced by the views of their Governments raised a serious problem. If it was to be resolved, Governments must propose and the Commission elect genuine human rights experts. The further the Sub-commission strayed from its expert role, the more it would be criticized and marginalized.

14. Despite those problems, however, the Sub-Commission had a number of significant achievements to its credit. It had completed studies that were used as the basis for significant human rights instruments, such as the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the body of principles on the treatment of detainees, the Second Optional Protocol to the International Covenant on Civil and Political Rights, and the body of principles on the Independence of the Judiciary. The Sub-Commission was also at present engaged in critical studies, such as those concerning the peaceful solution of problems involving minorities, the right to restitution, compensation and rehabilitation for victims of gross violations of human rights, the right to a fair trial and the question of impunity for perpetrators of human rights violations.

15. Moreover, it had been on the Sub-Commission's initiative that the Working Group on Enforced or Involuntary Disappearances, the Working Group on Arbitrary Detention as well as the Working Group on Contemporary Forms of Slavery and the Working Group on Indigenous Populations had been established. At its previous session it had proposed the appointment of a special rapporteur on racism and xenophobia who should shortly be designated.

16. The Sub-Commission should embark only upon studies likely to lead to tangible results in connection with the protection of human rights and should entrust their preparation solely to its members so as to reduce the costs involved.

17. In conclusion, he drew attention to the efforts made by the Sub-Commission to respond the Commission's justified criticisms. Problems still remained, however, and were connected with the effectiveness, co-ordination, cohesion and coordination of the entire United Nations human rights system. Nevertheless, the Commission should encourage the Sub-Commission to implement its new guidelines and above all concentrate on improving the lot of persons affected by gross violations or who were at risk.

18. Mr. OYARCE (Chile) paid tribute to Mr. Alfonso Martinez for the excellent work he had done as Chairman of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities. The analysis of the human rights issue implied general consideration of the concepts of promotion, prevention and protection as well as the functioning of various bodies and mechanisms and cooperation procedures in that sphere. But in particular, the process of international human rights law development, and specifically human rights standard-setting activities, entailed the consideration of matters which were highly sensitive for Governments and peoples and which should be taken into

account in the national and international legal framework. From that standpoint the Sub-Commission's role in the United Nations system was vital. The independence of the experts comprising the Commission was a sine qua non condition for objective thinking on those matters. For that reason his delegation hoped that Mr. Joinet would prepare a memorandum elaborating on article 6, paragraph 22, of the Convention on the Privileges and Immunities of the United Nations.

19. A question that had been raised on many occasions concerned the exact role of the Sub-Commission and its links with the Commission and other competent United Nations bodies. A Working Group had accordingly been set up in order to rationalize the Sub-Commission's methods of work and formulate specific and detailed proposals to that end (see paras 33 et seq. of Mr. Alfonso Martinez's report - E/CN.4/1993/60). Those proposals should be examined in greater detail. The Sub-Commission tackled a large number of human rights issues on the agenda of the Commission, but there were at least two areas in which its contribution to the latter was indispensable. The first concerned international peace and security as preconditions for the respect of human rights and, above all, the right to life. The link between human rights and peace and security gave rise to divergent legal and political interpretations and called for an in-depth analysis. In that respect, the Sub-Commission's opinion was particularly important.

20. The question of minorities was another aspect of critical importance in present international circumstances, and in that connection his delegation drew the Commission's attention to the report of the Special Rapporteur, Mr. Eide (E/CN.4/Sub.2/1992/37 and Add.1 and 2), who had proposed ways of facilitating the solution of problems involving minorities in a peaceful and constructive manner. He also stressed the importance of a third question, namely, that of indigenous peoples. In that respect, the Commission offered an ideal forum for a democratic dialogue that would promote pluricultural understanding between indigenous peoples and States. The Working Group on Indigenous Populations was promoting that dialogue in two ways: first, by preparing the declaration on indigenous rights, which was to be approved at the Commission's fiftieth session, and his delegation hoped that the scrutiny of the various elements of the declaration would continue so that the text could be adopted unanimously. If that was the case, it could, with the support of Governments, be approved by other bodies of the international system.

21. Thanks to the Working Group, the question of indigenous peoples was also being examined from the standpoint of its cultural, economic, political and social aspects and integrated in the programmes of all United Nations bodies. Thought should therefore be given to how the Working Group should continue its study of the question, and in that connection the focus should be on four specific points. First, consideration should be given to the possibility of organizing, in indigenous territories, of training courses on the international legal framework in which indigenous rights would be incorporated; secondly, the preparation of studies should continue on specific topics such as education, traditional medicine and ecological practices; thirdly, machinery should be developed to promote genuine participation by indigenous peoples in sustainable development projects, taking into account their priorities; and fourthly, the Centre for Human Rights should be strengthened with a view to making it the focal point of all matters relating to indigenous peoples in the United Nations system. That would entail theoretical analysis, the strengthening of backup services and an increase in voluntary contributions.

22. As many previous speakers had already pointed out, the International Year for the World's Indigenous Peoples should mark the beginning of a new era of greater co-operation and better understanding between the indigenous peoples and the States in which they lived. On that point, the report of Mr. Martinez on the study of treaties and other constructive arrangements between States and the indigenous peoples (E/CN.4/Sub.2/1991/33) contained valuable ideas that would facilitate the understanding of the philosophical, cultural and legal concepts of those people and the legitimate concerns of states. Such understanding was indispensable to the establishment of relations based on respect for the diversity and development of all.

23. Mr. ZHANG Yishan (China), after recalling that the Sub-Commission was a subsidiary organ of the Commission and summarizing its main functions, said that it had played an important role in protecting the human rights and fundamental freedoms of the victims of racial discrimination, apartheid, colonialism, foreign aggression, occupation and domination, and particularly those of the South African and Palestinian people.

24. In dealing with economic, social and cultural rights, as well as the right to development, the Sub-Commission was reflecting the human rights concerns of the developing countries. The consequences of colonialism and an unjust international economic order explained the economic underdevelopment of a number of those countries which, at the present time, constituted the main obstacle to the full enjoyment of human rights and fundamental freedoms in those countries where even the right to life was often in jeopardy. Such problems had to be resolved if the protection of human rights was to have any meaning.

25. The studies made by the Sub-Commission on the protection of vulnerable groups were of great significance since women, children, migrant workers, disabled persons and indigenous populations should be able to exercise their rights without any discrimination. Even though there were no indigenous peoples in China, the Chinese Government and people had always shown sympathy for the indigenous populations of other countries and had expressed concern about their situation. His Government sincerely hoped that the activities of the international community and all Governments during the International Year for the World's Indigenous People would help to improve their situation.

26. His delegation appreciated the studies prepared by the Sub-Commission on the relationship between the environment and human rights, on the impact of scientific and technological developments on human rights and on new forms of racial discrimination and xenophobia. However, it regretted that the Sub-Commission had not yet overcome certain habits rooted in the cold war and namely a tendency to politicize human rights issues, as well as its selectivity, partiality and the replacement of principles and facts by personal political tendentiousness and feelings. That did a disservice to the cause of human rights and was a serious obstacle to international cooperation. Furthermore, the Sub-Commission had exceeded its mandate by adopting certain resolutions such as resolution 1992/39 entitled "Arms production and trade and human rights violations" which dealt with arms control, since that question fell within the competence of other United Nations bodies dealing with disarmament. Such duplication should be avoided and the principle that each United Nations body should deal only with matters within its competence should be respected.

27. His delegation appreciated the contributions made by many non-governmental organizations to promote human rights but found it unfortunate that some of them used certain agenda items to engage in slander or to make groundless allegations totally unrelated to those agenda items. Some have even openly called for the secession of certain territories of sovereign States, thereby stirring up ethnic hatred, in violation of the purposes and principles of the Charter of the United Nations.

28. He welcomed the guidelines adopted by the Sub-Commission at its forty-fourth session concerning its methods of work and expressed the hope that they would be followed and thus help to increase its efficiency.

29. Mr. LAPRE (International Educational Development) urged the Commission to consider appointing a full-time professional staff member to assist the Working Group on Contemporary Forms of Slavery in considering the question of compensating victims of flagrant violations of rights and fundamental freedoms, and particularly those of the women who had been forced to engage in prostitution by the Imperial Japanese forces and the prisoners of war of those forces. After describing the ill-treatment to which he, as a former officer in the Royal Dutch Army, as well as his comrades-in-arms had been subjected by the Japanese army when they were prisoners, said that the Commission and Sub-Commission should look into the situation of the many persons who, like himself, were covered by the mandate of the Working Group on Contemporary Forms of Slavery and who had so far received no compensation.

30. His organization therefore proposed that the Working Group should entrust Mr. van Boven, the Special Rapporteur, with the task of going into the pressing problem of compensation and submitting his recommendations to the Working Group and Sub-Commission so that justice could be done to the victims in the near future.

31. Mr. LI Sang Chil (Liberation) said he wished to raise the issue of the forced displacement and enslavement of Koreans by Japan during its colonial occupation of Korea, and in particular the question of the women who had been forced into prostitution by the Japanese Imperial forces, and to submit to the Commission some recent information on the subject. The representatives of the Japanese Government had stated at the Commission's previous session that the Prime Minister had apologized to the Republic of Korea in January 1992 and that Japan would investigate the question of Koreans reduced to slavery. In July 1992 the Japanese Government had published a report of its investigation of sexual slavery, indicating that it might be followed by a second report. The first report failed to live up to the expectations of the victims, since the Japanese authorities had stated in it that of 127 situations examined none had indicated that there had been any forced recruitment of Korean women; that implied that the Korean victims had volunteered to prostitute themselves for money. However, the conclusions of the Fact-Finding Group on Forced Displacement of Koreans indicated exactly the opposite.

32. The Japanese Government was refusing to hear testimony from victims and assailants although, since 1991, hundreds of victims of sexual slavery had come forward in North and South Korea, in other Asian countries and even in the Netherlands, and former Japanese officials and soldiers had publicly recognized their crimes. If Japan did not recognize the facts, for what had Mr. Miyazawa apologized and on what basis could Japan grant compensation? Moreover, it seemed

that the practice of sexual slavery had been only the tip of the iceberg, since some 6 million Korean men, women and children had been displaced by Japan for forced labour. Such were the conclusions of the Fact-Finding Group as well as official Japanese records. Did Mr. Miyazawa also deny that Japan had reduced Koreans to slavery during the period of military occupation from 1905 to 1945?

33. Furthermore, Liberation regretted that the Japanese Government was still denying legal responsibility for the forced displacement of Koreans, and in particular for sexual slavery. The Japanese authorities maintained that the Japanese had not committed any illegal acts under Japanese law at that time, and that the victims had no legal right to claim compensation from the Japanese Government. Liberation believed that, even if the acts committed by Japanese had been lawful under Japanese law, Japanese Imperial forces had nevertheless violated international law since the forced recruitment, displacement and forced labour to which Koreans had been subjected, including the practice of sexual slavery, constituted crimes against humanity. The Forced Labour Convention, to which Japan had become party in 1932, had been violated. In addition, the systematic and organized rape of Korean women constituted a form of torture as well as slavery. In any event, even if Japanese law at the time were to be taken account, it would not be valid under international law since all treaties, including the 1905 Protectorate Treaty and the 1910 Annexation Treaty concluded between Japan and Korea had been falsified by Japan and had never been concluded in a valid manner.

34. Liberation therefore appealed to the Commission to look into the question of the slavery, including sexual slavery, to which Koreans had been subjected by the Japanese by investigating the facts, to urge the Japanese Government to disclose all official documents on the question and to investigate the facts, and to study the legal aspects of the situation and in particular the falsification of the treaties concluded by Japan and Korea. Lastly, it hoped that Japan would not be invited to become a permanent member of the United Nations Security Council.

35. Mr. Ennaceur resumed the Chair.

36. Mrs. SHIN (Commission of the Churches on International Affairs of the World Council of Churches) observed that the issue of "comfort women", in other words sexual slaves at the service of Japanese troops during the Second World War, concerned a vast number of girls and women, some of whom had been only 12 years of age; most of them had been Koreans, but women in other Asian countries such as China, Taiwan, the Philippines and Indonesia, as well as Dutch women in Indonesia, had also been victimized, beaten, tortured and systematically raped by Japanese soldiers. Her organization, like others, called upon the Japanese Government to conduct a careful investigation, to recognize the facts and accept legal responsibility. Unfortunately, Japan had so far not acceded to any of those requests. Moreover, in its first preliminary report on the subject published by the Japanese Government in July 1992, nothing was said about the testimony of surviving victims and of the Japanese soldiers who had publicly admitted the facts and despite such testimony the Japanese Government was denying that those unfortunate women had been coerced.

37. Her organization believed that most Japanese still did not admit that the forced recruitment of "comfort women" constituted a crime. Indeed, in November 1992 a Japanese intellectual, in an article published in a religious

magazine, called for women to be sent to Japanese soldiers stationed in Cambodia, claiming that healthy soldiers should not be without women for six months.

38. The Commission of the Churches on International Affairs of the World Council of Churches therefore requested the Commission on Human Rights to endorse the draft decisions of the Sub-Commission and the Working Group on Contemporary Forms of Slavery on the subject (E/CN.4/1993/2; E/CN.4/Sub.2/1992/58, draft decisions 1 and 8).

39. Mr. LITTMAN (International Fellowship of Reconciliation) said that he wished, once again, to draw attention to the impunity enjoyed by one of the Commission's member States despite the fact that it consistently violated a basic human right. For it was incomprehensible that in three reports on the right of freedom of opinion and expression submitted between 1990 and 1992 (E/CN.4/Sub.2/1990/11; E/CN.4/Sub.2/1991/9; E/CN.4/Sub.2/1992/9), absolutely no reference had been made to the "Rushdie affair". As had been emphasized by Mrs. Claire Palley, the Sub-Commission's expert, that body must take a firm stand and make it clear that the death penalty for heresy in itself was a gross violation of human rights. A firm declaration of that nature would have given hope to millions of Muslims who did not accept the usurpation of their spiritual values in that manner yet dared not say so publicly for fear of being branded heretics. It was regrettable that, for four years, neither the Sub-Commission nor the Commission had adopted resolutions strongly condemning the fatwa pronounced against Salman Rushdie as well as Iranian public incitations to murder that British writer.

40. The Iranian Government justified its position by referring to the Declaration adopted in March 1989 by the Islamic Conference of Foreign Ministers held in Riyadh, which "had proclaimed, in unambiguous terms, the apostasy of Salman Rushdie". Indeed, the Foreign Ministers of 44 Muslim States represented at the Islamic Conference had promulgated a ban on The Satanic Verses, but had not commented on the fatwa that had sentenced its author and publishers to death. According to the Shari'ah, the penalty for apostasy was death. Did that mean that those States recognized the justification of the fatwa? The international community was entitled to clarification of the matter from the Islamic Conference.

41. Moreover, the Human Rights Committee at its forty-sixth session had raised the Rushdie case and experts had asked the Iranian representative questions concerning the compatibility of the International Covenant on Civil and Political Rights and the fatwa in question. He had replied that the Covenant, as well as the Universal Declaration of Human Rights were compatible with Islam. Nevertheless, three days later Ayatollah Hassan Sana'i had reiterated his assassination appeal and had, moreover, indicated that the reward offered would be increased if the murder was committed by a member of Rushdie's family. Ayatollah Sana'i had subsequently threatened to execute anyone who supported Salman Rushdie. That meant that certain members of the Human Rights Committee were threatened with assassination. The International Fellowship of Reconciliation therefore wondered what more was needed for the Sub-Commission to condemn Iran strongly on the issue. It would be a great tragedy if once again realpolitik prevailed in that area as in others.

42. Mr. SIOUI (Four Directions Council) said that, in his view, even if the declaration on indigenous rights was inadequate, it constituted a sound beginning

and, for the populations concerned, the most important international instrument since the Universal Declaration of Human Rights. He emphasized that in Canada the situation of those peoples was a source of concern, even though the Government condescendingly earmarked large sums for programmes intended for the "first nations". One example was the Inu people, who consisted of 13 communities living in the provinces of Quebec and Labrador and who were at present dying of hunger, disease and despair. That people had been completely abandoned by Canada, received no financial assistance and, moreover, was harassed in various ways in that all their everyday activities such as hunting and the collection of firewood, required a permit. Canada should therefore refrain from boasting about its programmes for indigenous peoples. Racism was also rife in the country, particularly on radio and television, and the Canadian authorities were doing nothing to curb it. Yet it was highly likely that in the twenty-first century the experience of those who were called "savages, redskins and primitive" would be used in efforts to save the planet.

43. Mr. THLAU GOO YAILTH THLEE (Pax Christi) said that even before the Roman Empire or Europe had even existed, the Thlingit people were living in harmony with nature in the coastal region of south eastern Alaska. The Thlingits were therefore an ancient people, a people of laws and government, of culture and civilization, whose lives had been based on respect for others. The International Year for the World's Indigenous People would, it was to be hoped, mark a turning-point in the history of those peoples and make it possible to achieve a peaceful settlement of all outstanding conflicts and questions relating to health, employment, housing, culture, education, legal status and self-determination. For that reason his organization hoped that the new United States Administration would not disappoint the hopes of the indigenous peoples living in that country.

44. In the present century of enlightenment and scientific progress, the earth and the environment were being subjected to increasingly serious and deadly stresses and assaults. The earth could survive without man but man could not survive without the earth. Modern man must learn from the ancient wisdom of the indigenous peoples who knew how to take good care of their mother earth. Unfortunately the present period was characterized by violations of traditional human values and fundamental human rights, and it was vital that the Working Group on Indigenous Populations and the Sub-Commission should continue their valuable work. The indigenous peoples wished to suggest several ideas likely to bring about the desired changes. The Council of Elders of the Thlingit Nation had a number of solutions to offer as a means of improving the situation of indigenous peoples and tribal nations. Above all, the Thlingits were determined to continue using the land and water as their ancestors had done, keeping alive Thlingit traditions, culture and civilization. Access to traditional foods and natural resources would enable them to improve their health conditions considerably (at the present time average life expectancy for the inhabitants of Alaska was 33 years) as well as the situation of young persons in general (among whom the suicide rate was 26 times greater than the national United States average). Moreover, restoration of the Thlingit traditional way of life would put an end to the fragmentation of families.

45. The United States Government had reviewed the question of the rights of the Thlingit people with a view to enabling them to pursue their traditional way of life and their customary trading activities. The United States Congress had also adopted a Law prohibiting conditions of life detrimental to national, racial and ethnic groups. Moreover, the right of a people to its own means of subsistence was embodied in article 1 of the International Covenant on Civil and

Political Rights. It was the duty of the United Nations to call upon the United States Government to comply with existing Laws as well as international agreements and covenants, including the above-mentioned Covenant that the United States had ratified in September 1992 and that guaranteed all peoples the right freely to dispose of their natural wealth and resources.

46. Turning to the question of the recognition of the identity of indigenous, tribal and ethnic peoples, he noted that a people's membership of a tribe was based on various factors such as kinship, language, culture and traditions, life-style and way of making a living, history and geography, laws and traditional customs. Indigenous and tribal peoples, represented by their Council of Elders, had always known who belonged to their community and had never required outside assistance to define their identity. Government bodies that tried, from outside, to determine membership of a tribe lacked the technical and historical information necessary, as well as the cultural sensitivity required. Attempts to interfere with accepted tribal membership recognition formulas and to eliminate individuals and peoples from membership were tantamount to genocide. For that reason, the United Nations should request the United States Government to adopt a policy that left it up to the tribal and indigenous populations, as administered by their Council of Elders, to decide who their members were. Tribal and indigenous peoples had been subjected to alien and inappropriate laws and regulations, despite the fact that from time immemorial they had had their own laws and own Government. The traditional tribal court, consisting of elders and based on traditional tribal law, was responsible for administering justice to all segments of the population. That court was the best guarantee of the maintenance of a stable society, a healthy environment and balanced ecosystems. The United Nations should urge the United States Government to accord full recognition to the traditional tribal court and traditional tribal law. All conflicts involving members of indigenous or tribal populations should be settled by that court.

47. As for the environment, the Alaska region, like the rest of the world, was under tremendous pressure from profit-seeking corporate interests. Logging by the United States Forest Service seriously threatened forests needed by the indigenous peoples of Alaska for their survival. The Sub-Commission should therefore consider all aspects of the question and assess the solutions he had proposed to the economic, health, social and cultural problems being encountered by the Thlingit peoples. The magnificent region of Alaska deserved to be saved for the good of mankind as a whole. The year 1993, which had been proclaimed International Year for the World's Indigenous People, should confirm in a tangible manner the right of those peoples to self-determination as well as their right to make a living in the traditional manner.

48. Mrs. VENNE (International Work Group for Indigenous Affairs) recalled that the previous year indigenous participants in the Working Group on Indigenous Populations had signed a resolution expressing their desires about the direction of the Working Group's activities and the preparation of a draft declaration. Hundreds of representatives of indigenous organizations had participated in the Working Group's activities and had proposed that it should convene two regional meetings (one in South America and one in Asia) to allow the peoples of those regions to review the draft declaration and present their views. The strength of the declaration lay not in the speed with which it would be proclaimed but rather in its effectiveness. The greater the number of indigenous peoples who would participate in its preparation the better the result would be.

49. One of the unique characteristics of indigenous peoples was patience, because since 1947 they had been waiting for the United Nations to start setting standards for them. For that reason, it would be unfortunate to rush the completion of the declaration and to make the indigenous peoples follow someone else's agenda. For example, the working languages used in the United Nations system were not those of the indigenous peoples, and many of the words contained in the draft declaration had no meaning in their languages. It was vital to the success of the exercise that the voice of those peoples should be heard.

50. With respect to the treaty study requested under a resolution adopted by the Commission, she pointed out that very limited resources had been earmarked for that purpose. She also wished to bring to the Special Rapporteur's attention information regarding Indian treaties that he might find useful in his work. The previous autumn, the Governments of Canada, Saskatchewan and the Federation of Saskatchewan Indians had signed an agreement on Treaty Land Entitlement. Yet neither of the parties to the agreement were in fact party to the Treaty. The Government of Saskatchewan had not existed at the time the treaty had been concluded and the Federation of Saskatchewan Indians was of recent origin. Joseph Bighead First Nation had rejected the process. She had brought that fact to the Special Rapporteur's attention because it constituted a classic case of how indigenous treaties were being changed in order to suit Governments because a great deal of money was at stake.

51. The outstanding issues affecting the Lubicon Cree had still not been resolved. That community was not part of the treaty area and was therefore at the mercy of the whims of Governments and multinational corporations which were raping their lands. Although the Human Rights Committee had requested Canada to cease all activities within their traditional territory, development continued. An independent commission was reviewing the entire situation and preparing a report that her organization would make available to members of the Commission. She therefore requested the Special Rapporteur to include in his study the Lubicon Cree case, which could serve as an example for peoples who had so far not concluded any treaty.

52. Mrs. JACKSON (International Work Group for Indigenous Affairs) said she wished to condemn the attitude of the New Zealand Government which had violated the Treaty of Waitangi and the rights of the Maori peoples. That Treaty, which had been signed between the ancestors of the Maoris and the British Empire in 1840, had guaranteed the so-called Tino Rangatiratanga right of the Maori people which had always been interpreted by the Maoris as the right to sovereignty. In the view of the representatives of the Maoris who, since 1986, had been working on the draft declaration on indigenous rights, that right was embodied in the operative part of the declaration as a right to self-determination.

53. Unfortunately, the New Zealand Government had never recognized the validity of the Treaty of Waitangi. Barely a few years previously it had been induced to recognize its responsibilities as a former colonial Power and was at present endeavouring to settle disputes relating to land and resources. However, it had still not recognized the right of the Maoris to self-determination, as had been demonstrated recently by a fisheries dispute which had been the subject of a complaint referred to the Human Rights Committee. The New Zealand Government claimed that it was committed to the cause of human rights and yet it denied the

Maoris the right to self-determination, a right for which the Commission and Working Group on Indigenous Populations were fighting.

The meeting rose at 1 p.m.